

REMARKS

Applicant thanks the Examiner for the Office Action mailed January 11, 2006. In that Office Action, the Examiner objected to the Drawings as not showing every feature of the inventions specified in the claims. The Examiner further objected to the Specification as failing to provide proper antecedent basis for the claimed subject matter. Furthermore, the Examiner objected to Claim 4 for using the recitation "can be changed."

The Examiner also rejected Claims 1-12 under 35 U.S.C. 112, second paragraph, as being indefinite. The Examiner also rejected Claims 1-16 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,618,864 issued to Veal ("Veal").

In this response, Applicant has amended the Specification and Claims. Applicant respectfully submits that the Claims as amended are allowable. Applicant respectfully requests that the objections and rejections to the present application be withdrawn and the application be allowed.

INTERVIEW SUMMARY OF MAY 10, 2006:

On May 10, 2006, a telephone interview was conducted between the undersigned and Examiner Khoa D Huynh. The undersigned appreciates the time and attention that Examiner Huynh afforded him in the interview.

The construction and operation of the present invention were discussed. In addition, possible amendments to the claims were discussed to cure the 35 U.S.C. § 112(a) issues raised by the Examiner. The Examiner asked that a formal response to the Final Office Action be filed.

IN THE DRAWINGS:

The Examiner objected to the drawings for not showing "the horizontally rotatable lever as recited in claim 1 and the locking configuration by rotating the claim [sic] 180 degrees." Applicant respectfully disagrees.

For example, the drawings show a dual part lever assembly 29 (FIGS 2, 9-13) that is secured to a turret 91 (FIG. 8) positioned on top of the cover 27 of a housing 21 and a lever 121 (FIGS 2, 12-13, and 16-18) that is pivotally attached to a lever mount 115 of the lever assembly

29. The lever assembly assembly 29 is rotatable around about the turret 360 degrees in either a clockwise or counterclockwise direction, such that the lever 121 can be horizontally rotated to a desired position (Para. No. 39-40 and 47-49).

In addition, the drawings show a mounting clamp 23 (FIGS. 2, 3, and 14-15) that may be securely locked or removably affixed to the base 25 (FIG. 2) of the housing 21 by inserting opposite ends of the mounting plate 167 into the guide rails 39 on sidewall 31A and sliding the clamp through the channel 41 (FIG. 3) until the mounting plate 167 reaches the closed end of 40 (FIG. 3) the channel (Para. No. 45).

In view of these remarks, Applicant respectfully requests that the Examiner withdrawn this objection.

IN THE SPECIFICATION:

The Examiner objected to specification as failing to provide proper antecedent basis for the terms “a locking configuration by rotating the clamp 180 degrees” in Claim 3. Applicant respectfully disagrees.

For example, the specification teaches that “the automatic flushing actuator for tank style toilets 1 (FIG. 1) of the present embodiment may include a housing 21 and a mounting clamp 23, which are adapted to be placed inside a tank of a toilet and secured to the overflow pipe 17 (FIG. 1)” (Para. No. 34). The specification also teaches that the clamp 23 “has a mounting plate 167 opposite the securing tabs 153A-B for affixing the clamp to the base 25 (FIG. 2) of the housing 21 (FIG. 2). As shown in FIG. 14, the mounting plate 167 is generally rectangular in shape and has longitudinal edges 169. A tab 171 extends from one end of the mounting plate 167 and includes an opening 173 extending partially through the tab for locking the clamp to the base 25” (Par. No. 44).

In particular, Paragraph 45 states “[t]he clamp may be securely locked or removably affixed to the base 25 (FIG. 2) by inserting one end of the mounting plate 167 into the guide rails 39 on sidewall 31A and sliding the clamp through the channel 41 (FIG. 3) until the mounting plate 167 reaches the closed end of 40 (FIG. 3) the channel. If the clamp is secured to the base by inserting the rectangular end 168 of the mounting plate 167 into the channel 41, the clamp may be easily removed from the housing. Alternatively, if the clamp is rotated 180 degrees so that the opposite end of the mounting plate 167 with the tab 171 is inserted into the channel first,

the opening 173 in the tab 171 will engage the ridge 42 on the base and lock the clamp to the housing" (Para. No. 45). With this response, the specification has been amended at Paragraph 45 for clarity and no new matter has been added. The amendment is supported by paragraphs 44 and 45 on page 9 of the application as originally filed.

In view of these remarks, Applicant respectfully requests that the Examiner withdraw these objections.

IN THE CLAIMS:

The Examiner has rejected Claims 1-12 under 35 U.S.C. § 112 and has rejected claims 1-16 under 35 U.S.C. § 102. The Examiner also has objected to Claim 4. Applicant will discuss each basis of rejection individually.

Objection to Claim 4

The Examiner objected to Claim 4 for using the recitation "can be changed." Applicant has amended Claim 4. Applicant submits that the Examiner's objections to the specification are overcome in view of the present amendment made to Claim 4.

Rejection of Claim 1-12 Under 35 U.S.C. § 112

The Examiner rejected Claims 1-12 under 35 U.S.C. 112, second paragraph, as being indefinite for two reasons. First, the Examiner rejected independent Claim 1 as being indefinite because the recitation "a clamp for [sic] mounting a [sic] housing on a component in the toilet tank" is inferentially included as part of the claimed combination of elements. Applicant has amended independent Claim 1 and dependent Claims 6 and 7 to more clearly specify the claimed combination of elements. No new matter has been added. Applicant submits that Claims 1, 6, and 7 as amended are allowable, and respectfully requests that the Examiner withdraw this § 112 rejection.

The Examiner also rejected independent Claim 1 as being indefinite because the recitation "a horizontally rotatable lever" does not have any support in the original specification and is not accurate. Applicant traverses this rejection. As noted above, the specification teaches a dual part lever assembly 29 (FIGS 2, 9-13) that is secured to a turret 91 (FIG. 8) positioned on

top of the cover 27 of a housing 21 and a lever 121 (FIGS 2, 12-13, and 16-18) that is pivotally attached to a lever mount 115 of the lever assembly 29. The lever assembly assembly 29 is rotatable around about the turret 360 degrees in either a clockwise or counterclockwise direction, such that the lever 121 can be horizontally rotated to a desired position (Para. No. 39-40 and 47-49). In view of these remarks, Applicant submits that independent Claim 1 is allowable. Furthermore, because Claims 2-12 are dependent on Claim 1, Applicant submits that these claims are also allowable. Applicant respectfully requests that the Examiner withdraw the rejection of Claims 1-12 under 35 U.S.C. § 112.

Rejection of Claims 1-16 Under 35 U.S.C. § 102

The Examiner rejected Claims 1-16 under 35 U.S.C. 102 as being anticipated by Veal. The Examiner stated that Veal discloses an automatic flushing actuator system for a toilet having all the claimed features of Claims 1-16. Applicant traverses this rejection of Claims 1-16.

Applicant submits that independent Claim 1 is patentable over Veal because Veal fails to disclose “a housing having a base and a cover, said cover having a horizontally rotatable lever mounted thereon.” Veal discloses that “the operator 66 is a lever 100 pivoted at a pivot point 102 that divides the lever into a long portion 103 and a short portion 104. Cam follower 97 rests against the short portion 104 of the lever 100. As the cam 92 is rotated by the gear 93 . . . , the follower is pushed down which lifts the long portion 103 of the lever 100. Since the long portion 103 of the operating lever 100 weighs more than the short portion 104, the lever 100 is normally in an at rest position in which it is rotated clockwise and presses upwardly against the cam follower 97” (Col. 6, ll. 24-39). Veal does not disclose a cover having a horizontally rotatable lever mounted thereon. Applicant therefore respectfully requests that the Examiner withdraw the rejection of Claim 1 under 35 U.S.C. § 102.

In addition, because Claims 2-12 are all dependent on Claim 1, those claims contain every element of independent Claim 1. These dependent claims should be allowed for at least the same reasons as set forth for independent Claim 1 above. Furthermore, additional limitations of these dependent claims also distinguish over Veal. For example, Veal discloses “the automatic flush actuator 60 is comprised of housing 84 is [sic] configured as a molded water proof cup having a top end 85 with a projecting hook 86 that fits into the open top 87 of the overflow pipe 62. The housing 84 has a pair of laterally extending straps 88 which fit around

overflow tube 62 and fasten the housing 84 tightly to the overflow tube when a bolt 89 fastens the straps together" (Col. 6, ll. 5-13). Veal fails to disclose: that "said clamp is permanently mounted to said housing" as recited in Claim 3; that "said clamp is changeable from a removable configuration on said housing to a locked configuration by rotating the clamp about 180 degrees" as recited in Claim 4; "an insert configured for placement inside said clamp" as recited in Claim 5; and that "said housing is adapted for being affixed to said clamp after said clamp is affixed to said overflow pipe" as recited in Claim 7. Veal also fails to disclose "a turret coupled to an upper portion of said cover" as recited in Claim 8; "a lever assembly coupling said horizontally rotatable lever to said turret" as recited in Claim 9; "serrations on said turret" as recited in Claim 10; and "serrations on said inner surface of said lever assembly, wherein said turret serrations engage said lever assembly serrations when said horizontally rotatable lever is rotated thereby establishing said lever assembly in a desired position" as recited in Claim 11. Applicant therefore respectfully requests that the Examiner withdraw the rejections of dependent Claims 2-12.

Applicant also submits that independent Claim 13 is patentable over Veal because Veal fails to disclose "a horizontally rotatable lever coupled to said cover upper surface." Applicant respectfully requests that the Examiner withdraw the rejection of Claim 13 under 35 U.S.C. § 102.

In addition, because Claims 14-16 are all dependent on Claim 13, those claims contain every element of independent Claim 13. These dependent claims should be allowed for at least the same reasons as set forth for independent Claim 13 above. Furthermore, additional limitations of these dependent claims also distinguish over Veal. For example, Veal fails to disclose: "guide rails coupled to a slidably receivable clamp of said housing" as recited in Claim 14; that "said slidably receivable clamp is removably mounted to said housing" as recited in Claim 15; and that "said slidably receivable clamp can be changed from a removable configuration on said housing to a locked configuration by rotating said slidably receivable clamp about 180 degrees" as recited in claim 16. Applicant therefore respectfully requests that the Examiner also withdraw the rejections of dependent Claims 14-16.

SUMMARY

Each of the rejections in the Office Action mailed January 11, 2006, has been addressed and no new matter has been added by the present amendments. Applicant submits that all of the pending claims are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to call the undersigned at (312) 245-5385 if such communication would expedite the prosecution of this application

Respectfully submitted,



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